IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 4901 of 2007(H)

PETITIONER:

O.F.AUGUSTINE,
UPPAMTHADATHIL, P.O.MARANGATTUPALLY,
KOTTAYAM DISTRICT.

BY ADV. SRI.K.V.SOHAN
SMT.SREEJA SOHAN.K.
SMT.SANJANA R.NAIR

RESPONDENTS:

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1. MARANGATTUPILLY GRAMA PANCHAYAT,
REP. BY ITS SECRETARY, MARANGATTUPALLY,
KOTTAYAM DISTRICT.

2. THE SECRETARY,
MARANGATTUPILLY GRAMA PANCHAYAT,
MARANGATTUPALLY, KOTTAYAM DISTRICT.

ADDL.R3 & R4

3. TOMY JACOB,
PULLANTHANICKAL HOUSE,
MARANGATTUPILLY P.O.,
KOTTAYAM.

4. ANOOP JOHN,
PULIKOYIL HOUSE,
MARANGATTUPILLY P.O.,
KOTTAYAM

ARE IMPLEADED AS ADDL. R3 & R4 AS PER ORDER DT. 19.2.07 IN I.A.NO.2494/07.

R3 & R4 BY ADVS. SRI.PHILIP T.VARGHESE
& SRI.THOMAS T.VARGHESE
R2 BY ADV.SRI.MATHEW JOHN (K)
& SRI.SUJESH MENON V.B.
SRI.A.A.ABUL HASSAN,S.C,KOCHI UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No.4901 of 2007 H

Dated this the 3rd day of April, 2007.

JUDGMENT

I do not propose to go into the merits of the case. As rightly submitted by the counsel for the panchayat, the petitioner has got a statutory remedy against Ext.P3 by way of an appeal to the Tribunal for Local Self Government Institutions.

2. However, considering the clarificatory report submitted by Dr.K.E.George and Dr.Thomas Kurian, Professors of the Department of the Polymer Science and Rubber Technology, Cochin University of Science and Technology, cochin, it has to be accepted that standard raw materials mentioned in Ext.P21 report is a raw material which is completely devoid of tar and natural rubber. In other words, it has been clarified by the Scientists that in this case, polyethylene sheet that has been used as rain guard in rubber plantation, is the

standard raw material, provided the same is made completely devoid of tar which has been used as part of adhesive and natural rubber.

3. Mr.Sohan, learned counsel for the petitioner submits that the petitioner will be using only such standard raw material in their industry. Counsel for the party respondents and the counsel for the panchayat submit that the standardisation of the raw material itself is causing pollution. But, Mr.Sohan submits that what is required for standardisation of the raw material is to cut and remove the portions which contain tar and natural rubber. No process as such is necessary.

4. Considering the above submissions, I dispose of this writ petition itself continuing the interim

order presently passed subject to the following conditions:

(a) The petitioner shall use only standard raw material as stated by Dr.K.E.George and Dr.Thomas Kurian in their report No.DPR 1.18/HOD/06-07/1399 dated 26.3.2007 submitted before this court and that the specifications in that report regarding the temperature fixed for melting and extrusion also will be strictly followed by them.

Subject to the above conditions, the interim order is continued for a period of two months. The writ petition is disposed of relegating the petitioner to seek remedies against Ext.P3. It is made clear that the grant and continuance of the interim order, as above, will not

be considered by the tribunal as a reflection on the merits of the case. If the petitioner prefers an appeal against Ext.P3 within three weeks from today, the tribunal will entertain the appeal as one filed on time and dispose of the same in accordance with law.

Sd/-

(PIUS C. KURIAKOSE)

JUDGE

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P.S. To Judge

PIUS C. KURIAKOSE, J.

W.P.(C) No.4901 of 2007 H

JUDGMENT

3rd April, 2007.